



UNITED STATES PATENT and TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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The Honorable Howard Coble
Chairman, Subcommittee on Courts and Intellectual Property
Committee on the Judiciary
House of Representatives
Washington, DC 20515

The Honorable Howard Berman
Ranking Member, Subcommittee on Courts and Intellectual Property
Committee on the Judiciary
House of Representatives
Washington, DC 20515

Dear Mr. Chairman and Mr. Berman:

Thank you for your request for information on the impact that the recent House Appropriations Subcommittee on Commerce, Justice, State, and the Judiciary mark-up for fiscal year 2001 will have on the United States Patent and Trademark Office (USPTO) and its customers.

As you know, the importance of intellectual property has increased exponentially in the last decade, and the USPTO has been a major factor in the Nation's ability to support the current high technology growth boom. This year alone, patent and trademark filings are increasing at a dramatic rate -- a 40% increase in trademark application filings and a 12% increase in patent application filings.

All of our revenues, projected to be \$1.2 billion in fiscal year 2001, are paid as fees by the knowledge-based high-tech leaders and individual entrepreneurs who rely on us to help them flourish in this economy. We are no burden to the American taxpayer. Moreover, we use activity-based cost management principles. Our fee revenues relate directly to the work we do. We do not "have a surplus" or "make a profit".

The proposed mark would seriously impair our ability to effectively manage our operations and provide our customers with the quality products and services they expect and deserve. Since the mark would fund us at \$904.9 million, or about 25% less than the total fees paid by our customers, we would be forced to make significant modifications in our operations.

Specifically, we have preliminarily determined that we would have to take the following actions:

Freeze Hiring and Reduce Issuance and Printing

We would be forced to freeze hiring and eliminate overtime for all staff, thereby reducing costs by \$56 million. This means we would not hire or replace over 1,000 staff members, including more than 600 patent examiners and trademark examining attorneys. In an agency such as ours, where the workload has grown by almost 75% since 1992, such actions would be extraordinarily counter-productive. We would also be forced to reduce spending on the preparation and printing of patents and trademark registrations by about \$12 million.

According to our current estimates, this would result in more than 48,000 patent applications being denied an initial examination, 34,000 patents not being allowed, and an additional 68,000 patents actually not issuing. In addition, approximately 60,000 trademark registrations would not issue.

Additionally, the time it takes us to render a first action on the merits of both patent and trademark applications will increase significantly. For trademark applications, the time will almost double, from 4.5 months to 8 months; for patent applications, it will increase by almost one-third, from 11.9 months to 15.8 months.

Our appellate processes would also suffer. For example, the time it takes to hear and render decisions at the Trademark Trial and Appeal Board would almost double.

For many businesses, especially high-tech, entrepreneurial start-ups, intellectual property is often their principal asset. Delays like these would significantly affect their ability to protect those assets and grow their businesses, potentially crippling critical sectors of the United States economy.

Negative Impact on Consumers

Besides negatively impacting patent and trademark owners, the American consumer may also be adversely affected. Since delays in examination and issuance would result in an extension of patent term under the American Inventor's Protection Act, these budget cuts could also unnecessarily prolong the terms of many patents, potentially driving up costs to all Americans, in such vital areas as health care and pharmaceuticals.

Eliminate Planned E-Government Initiatives and Reduce Existing IT Activities

To be a viable organization in today's high technology economy, the USPTO needs to conduct much more of its business electronically. We are well on the way to doing so, most notably, with our successful electronic trademark filing system and the availability of our patent and trademark databases via the Internet. Under the proposed mark, we would have to make reductions in this area of \$37 million, which will force us to eliminate all new planned automation projects and severely curtail many of our already successful systems.

Specifically, we will be forced to significantly reduce or eliminate the planned electronic filing of patent applications, on-line database searching (with a consequent reduction in patent quality),

our award-winning patents and trademarks on the Internet program, our work-at-home program, the electronic filing of assignments, and necessary upgrades or planned replacements to basic examiner computer equipment. We also would not be able to implement the replacement of our PTONet, which is the critical backbone of our information technology system, jeopardizing our entire operation.

Reduce Quality Initiatives and Customer Service Programs

As you also know, we make customer service and quality one of our guiding principles here at the USPTO. Unfortunately, under this proposed mark, our quality initiatives and customer service programs would have to be reduced by \$29 million. This would likely result in the elimination of support for the 87 Patent and Trademark Depository Libraries, which are located in every state in the Union, as well as drastically reduce support for the two public search facilities located in Arlington, Virginia.

Our successful quality management initiatives would be dramatically curtailed, along with quality assurance programs throughout the USPTO. Training for examiners and administrative support staff would also have to be significantly scaled back, if not eliminated. Finally, we would be unable to implement the recommendations of the Inspector General for increased staffing in our quality review program areas.

Workforce Impacts

Our workforce here at the USPTO is among the most highly skilled and highly sought after in the New Economy, as well as the Federal Government. Cuts in areas such as overtime and training would severely weaken our ability to recruit and retain the high caliber staff, which is essential to our work.

Thank you again for all your years of steadfast support for all of us here at the United States Patent and Trademark Office and for all of those inventors and entrepreneurs who depend so heavily on our work. The intellectual property system of the United States is the envy of the world. Unfortunately, the cuts that would result from this proposed mark-up would harm our system. The last time we endured funding shortfalls and freezes of this magnitude, the recovery took over a decade. I know you share our hope that this does not happen again.

Sincerely,

A handwritten signature in black ink, appearing to read "Q. Todd Dickinson", with a long horizontal flourish extending to the right.

Q. Todd Dickinson